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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,525	02/12/2004	Shinichi Ozeki	0505-1271P	4135
2292 7590 12/03/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER TO, TOAN C	
			ART UNIT	PAPER NUMBER
			3616	
			NOTIFICATION DATE	DELIVERY MODE
			12/03/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/776,525		OZEKI, SHINICHI	
	<b>Examiner</b>		<b>Art Unit</b>	
	Toan C. To		3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 11, 12, 14, 15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 13 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Examiner's Note

1. In view of reconsideration, the indicated allowable subject matter of claims 2-3, 6, 12, and 15 in previous office action is hereby withdrawn.

### *Priority*

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19 and 20 renders the claims indefinite for being unclear, since the preamble of claims 19-20 differ from the preamble of the independent claim 11.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1-3, 5-6, 11-12 and 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Toyoda Japan Patent No. JP02003011875.

Toyoda discloses a structure for installing a rear cushion in a rear suspension, comprising: a rear swing arm (24), a front end of which is supported so as to be freely rock-able on a vehicle body side through a pivot shaft (25), and a rear wheel (26) of which is supported at a rear end; a cushion bracket (31) provided on a upper portion of said rear swing arm (24) on a front end side; a link (32) for coupling a lower front end portion (33) of said rear swing arm (24) to the vehicle body side (13); and an upper portion (61) of said rear cushion (28) supported by said cushion bracket (31), and a lower portion (62) of said rear cushion (28) supported by said link (32), wherein said cushion bracket (31) extends forwardly of and rearwardly of the upper portion of said rear cushion (figure 2 shows the side view of the rear suspension, wherein the shock absorber fitting beam 31 is mounted to the upper front portion of the swing arm 24 and extended in longitudinal direction, wherein the front end and rear end of the shock absorber fitting beam are located forward and rearward with respect to the upper portion 61 of the shock absorber 28), both a forward end portion and a rearward end portion of the cushion bracket (28) are coupled to said rear swing arm (24), and wherein the upper portion (61) of said rear cushion (28) is supported by an intermediate portion (see figure 2) of the cushion bracket in a back-and-forth direction; the rear swing arm (24) being a cantilever swing arm including a pair of left and right arm portions (75, 76), the cushion bracket (31) including a pair of left and right cushion brackets (31a), front end portions of the left and the right cushion brackets (31) being coupled to a first cross member

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(103) which is laid over the left and right arm members (75, 76), rear end portions of the left and the right cushion brackets (31) being coupled to a second cross member (106), the first and the second cross members (103, 106) being provided at an interval in the back-and-forth direction between upper portions of said left and right arm portions (75, 76) on the front end sides; wherein the link includes a triangular shaped link member (32) and a linear link arm (34); wherein the rear cushion includes a cushion spring (shock absorber 31 is a cushion spring); wherein the linear link arm includes left and right links arms (34) connected to the left and right sides of the triangular shaped link member (32).

#### ***Allowable Subject Matter***

7. Claims 4, 13, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Toan To



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November 18, 2007

**TOANTO**  
**PATENT EXAMINER**